

ECONOMIC DEVELOPMENT & ENERGY COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE

Minutes

A meeting of the Economic Development and Energy committee of the Suffolk County Legislature was held at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, NY 11787 on Monday, May 13, 2002 in the Rose Y. Caracappa Auditorium at 10:30 A. M.

Members Present:

Legislator Jon Cooper, Chairman
Legislator Fred Towle, Vice Chairman
Legislator Allan Binder, Member
Legislator Vivian Fisher, Member
Legislator George Guldi, Member

Also in Attendance:

Paul Sabatino, Counsel to the Legislature
Ken Berkman, Berkman, Henoch
Peter Sullivan, Berkman, Henoch, Peterson & Peddy, P.C.
Sondra Rivas, Self Observer
Barry K. Fine, Fine Hummel, P.C.
Irving Like, Reilly, Like, Tenety, Ambrosino, Attorneys at Law
Nicole DeAngelo, County Executive's Office
Barbara LoMoriello, Aide to Legislator Cooper
Gordian Raacke, CAP
Kevin Duffy, Budget Review Office
B.J. McCartan, Aide to Presiding Officer Tonna

All other interested parties.

Minutes taken by:

Eileen Schmidt, Legislative Secretary

(The meeting was called to order at 10:48 A. M.)

CHAIRMAN COOPER:

The meeting will come to order of the Economic Development and Energy Committee.
Legislator Fisher if you could lead us in the Pledge please.

SALUTATION

CHAIRMAN COOPER:

We're going to move right to the:

TABLED RESOLUTIONS

1050. Authorizing retrofitting of traffic lights and LED fixtures. (Cooper) I make a motion to table. Is there a second?

LEGISLATOR FISHER:

I'll second it.

CHAIRMAN COOPER:

All those in favor? Opposed? IR 1050 is tabled. (Vote: 5-0)

1478. Amending the 2002 Capital Budget and Program and appropriating funds in

connection with reimbursement to LIPA for relocation of Long Island Power Authority (LIPA) facilities on Suffolk County Construction Projects (CP 5000). PRIME (Co. Exec.)

LEGISLATOR FIELDS:
Motion to table.

CHAIRMAN COOPER:
I'll second that motion. That was a request from the County Exec's Office since we're awaiting more information from DPW. All those in favor? Opposed? IR 1478 is tabled.
(Vote: 5-0)

Sense 4-02 (Non P) - Memorializing Resolution Requesting State of New York to Authorize Lottery for Suffolk County (Cooper) I'd make a motion to table.

LEGISLATOR BINDER:
Second.

CHAIRMAN COOPER:
All those in favor? Opposed? Sense 4-02 is tabled. (Vote: 5-0)

INTRODUCTY RESOLUTIONS

1503-02 (P) Authorizing use of H. Lee Dennison Executive Office Building by Long Island Growers Market (Association) for farmers market. (Caracciolo) Is there a motion?

LEGISLATOR FISHER:
I'd like to make a motion to approve.

LEGISLATOR BINDER:
I would second for purposes of discussion just I'd like to hear from the County Executives Office since or from Space Management or get an idea of how this affects county space use and also how the County Executive's Office who's upstairs feels about it. I know this is introduced by a Legislator so now not from the County Executive's Office that's why I think it be a good idea or it might not be a good idea. Is Space Management or somebody here from -- since we don't have it I would ask I would make a motion to table for one meeting and ask for Space Management to come since we're prime rather than sending it to the floor I would think that we would want to have -- understand the implications of how much space; how it affects other use of space over at the Dennison Building. So I'd make a motion to table.

CHAIRMAN COOPER:
I'll second that motion. All those in favor? Opposed? IR 1503 is tabled. (Vote: 5-0)

SENSE RESOLUTIONS

35-02 (P) Memorializing resolution requesting State of New York to implement Rail Road Car Artificial Reef Program. (Towle)

LEGISLATOR TOWLE:
Motion to approve.

LEGISLATOR GULDI:
Wait a minute I thought that was mine bill. How did you get ahead of me on that? Co-sponsor.

LEGISLATOR TOWLE:
Cause you're slow.

LEGISLATOR GULDI:

I've been working on that for months. You know there are some problems though that I need to talk to the sponsor about.

LEGISLATOR TOWLE:

(inaudible)

LEGISLATOR GULDI:

Yeah, cause I've been holding off because there is some issues to be addressed with respect to the whole program. Add me as a co-sponsor and I'll second the approval motion, but I think that we need to consider rather or not we should move forward rapidly.

LEGISLATOR FISHER:

Okay. On the motion there were some questions that I had with regards to the program and I was wondering if, George have you been looking at it? If possibly you could tell us what some of the problems – because I was thinking when these railroad cars are used for the stabilization they're in water – when there is -- I asked Counsel, but if you've been researching it you might know the answers more intimately. If these cars are underwater and there is deterioration and the breakdown of the metals is there a problem of leaching materials into the water, into the ground that might be toxic?

LEGISLATOR GULDI:

Well, the areas that we have been –

LEGISLATOR TOWLE:

I can answer that too, but go ahead.

LEGISLATOR GULDI:

One of the carriers of concern is and the way it came to my attention was the seeking of a site to prepare the cars before they're ready to be lowered into the ocean floor, reef purposes. To do that you've got to obviously, look at the solvents, the greases and the heavy hydrocarbons that are the ordinary part of rolling stock, but also one of the issues addressed was asbestos tile and whether or not that's an issue in the marine environment. The cars themselves are stainless steel and the life expectancy of them is extremely long as a result and the standard deterioration would be simple oxidation of steel. So the answer is, is rust in the ocean a substantial environmental issue and I fear not because it's iron in its natural state.

LEGISLATOR FISHER:

But George, although the body is stainless steel – so what you're saying in the preparation of this cars – then they're guttered. The interior elements of the railroad cars that might have other toxins, other materials that might be harmful are removed in the prep –

LEGISLATOR GULDI:

They have to be as part of any reef design. I mean, the creation of artificial reefs is something that's been done successfully with a number of types of equipment. Former military equipment from battleships to armored personnel carriers and tanks have been used; all of them require preparation so that you're not submersing pollutants into the marine environment. Once those issues are addressed and resolved for the Long Island problem the question is where to do this and then how to provide a launch site that is rail heading where you can get the railroad cars on a barge to take them offshore for placement which is problematic as well. The -- I just lost my train of thought.

LEGISLATOR BINDER:

Train of thought that was pretty good actually.

LEGISLATOR TOWLE:

Let me jump in too, Legislator Fisher, if I could. Legislator Guldi is quite correct on the points that he made. I met with the president of the Long Island Rail Road on Thursday to have a conversation with him about this and couple of other issues in my district and they

are doing this program right now down South off of Virginia -- South Carolina -- North Carolina. It cost them \$35,000 to strip down every railroad car so there is not materials from the car that possibly could cause any contaminants. They've worked that price out with the Metropolitan Transportation Authority so the Long Island Rail Road sends their cars over to the MTA; they strip the cars down and ship it down to this pilot program that their doing down South. They also had a scrap company that's interested in taking the cars and eliminating that \$35,000 in cost to them taking the car stripping it down and then reselling, you know, the shell or whatever's left for the purpose of that. I asked them if they would be interest in donating a couple of cars to the County of Suffolk surplus cars. They are willing to do that; they were not willing to pick up the \$35,000 in cost though; we have to spring for that. The thought I was thinking of was actually Smith Point because we're about to and have been working on both myself and Legislator Foley a multi-million dollar long-term project at Smith Point because all the temporary fixes that we've done have not worked there.

And my last thought was before we to spend all of this money why not invest \$115,000 purchase, you know, three of the cars have them donate three of the cars have them strip them down and let's set up a system to work at Smith Point. Now I'm obviously thinking my thought out way ahead of all the details everything has not been ironed out, but the concept itself is what the Sense supports. It's been supported by the Long Island Beach Buggy Association which is obviously a prominent group that cars about the beaches. The New York Fishing and Tackle Trade Association and four or five other sports beach groups that just believe that this type of program, you know, makes sense. It protects the environment and protects the very resources, our waterfront, that we're trying to preserve at a very limited amount of money, plus we're reusing materials that would have otherwise, you know, clogged up some point.

LEGISLATOR FISHER:
Recycling.

LEGISLATOR TOWLE:
Yeah. Absolutely.

LEGISLATOR FISHER:
Fred, as far as the cost is concerned I suppose I misunderstood this or didn't look at the resolution carefully enough, but I thought that because it was a Sense that it would be the State that would be incurring the cost.

LEGISLATOR TOWLE:
Correct. As far as the issue is concerned the State would authorize and move forward with this program, but you and I and the rest of the Legislators know how quickly that will take place. I probably will be collecting Social Security when that happens; so from that perceptive although I am calling on the State to do this I'm also researching the possibility none be knowns to me Legislator Guldi was doing the same thing to possibly doing some type of pilot program here in Suffolk County.

LEGISLATOR GULDI:
On that issue what I've been working with is not -- other groups including the Fish and Tackle Dealer Association and looking at a project to do a deep water offshore reef with approximately 100 railroad cars which in terms of fishing and recreational economic benefits would be in the order of \$25 million a year to the County. That benefit being the economic benefit and the increase of recreational opportunities being the primary not as an erosion control measure because I don't think they'll be effective as an erosion control measure unless you put them in water too shallow to be usable for recreational opportunities and to be certain that you're not going to interfere with fishing activities. So, yeah, obviously we're working it at -- to a common end and purpose we're looking in the same area.

LEGISLATOR TOWLE:
And obviously, I would be happy to do it.

LEGISLATOR FISHER:

You could put them at the foot of the windmills.

LEGISLATOR TOWLE:

Yeah, basically. Legislator Guldi always thinks of big things.

LEGISLATOR FIELDS:

Thank you.

CHAIRMAN COOPER:

We have a motion to approve and a second. All those in favor? Opposed? Sense 35 is approved. (Vote: 5-0) All right. We are now going to move to the law firm interviews.

LEGISLATOR BINDER:

Have me added as a co-sponsor to Sense 35.

LEGISLATOR FISHER:

I'll co-sponsor that as well.

CHAIRMAN COOPER:

Excuse me is Mr. Like in the auditorium? Okay. Our first speaker is Ken Berkman from Berkman, Henock.

LEGISLATOR TOWLE:

Mr. Chairman, before our first speakers speaks I've done this a couple of times are we going to leave all the attorney's in the room and do this in a public session or --

LEGISLATOR FISHER:

-- it's two parts --

CHAIRMAN COOPER:

We're going to have public portion and then executive session. So executive session we'll use one of the conference rooms.

LEGISLATOR TOWLE:

Okay.

MR. SABATINO:

Just to provide some guidance to the committee following what we've done in the past. There will be two parts, the first part is just an open session is a background with questions if appropriate from committee members to the firm. Then when we get to the legal strategy, which will be part two that I'll be -- talk about how they foresee prosecuting the case. We'll make a motion to go into executive session on a firm by firm basis one at a time. We'll just use one of the rooms on the side for that. So it's the legal strategy part will be separate from the public part, which is background.

MR. BERKMAN:

Good morning, Mr. Chairman, distinguished members of the committee, Counsel. I'm Ken Berkman; I'm from the firm of Berkman, Henoch, Peterson & Peddy. We've got offices in Garden City and in Melville. We have 50 attorneys in the firm, approximately 150 support personnel. We represent municipalities mainly in complex and very interesting litigation. We have represented and continue to represent the Town of Huntington in defense of a certiorari brought by LILCO regarding the Northport Power Plant and we have represented the Suffolk County Legislature in three interesting litigations two of which are still ongoing. At this point I'd like to introduce my partner Peter Sullivan who heads our litigation practice group.

MR. SULLIVAN:

Good morning. My name is Peter Sullivan as Ken mentioned. I'm co-chairman of the litigation department at Berkman, Henoch. We have approximately eight lawyers; we're involved in numerous litigations and have been involved numerous litigations over the past

four or five years involving the Towns of Patchogue, Babylon, North Hempstead, Northport, Huntington, City of Long Beach, a number of matters for the County of Suffolk and County of Nassau. As I said we have eight lawyers we're involved in all sorts of complicated matters and handle it soup to nuts. I'd like to think that we're a young although my seventh grader probably disagree he thinks I'm older than dirt. We're a young eager, energetic and hopefully very responsible law firm and I hope that's been true as indicated by our relationship with the County so far over the last number of years and the litigations that we've handled and hopefully we're also affordable. And I'd be open to any questions the committee might have.

CHAIRMAN COOPER:

Peter or Ken could you list some of the types of ratepayer or utility or class action litigation that you've been involved with in the past that may indicate to us how you'd be best suited to handle litigation that's proposed right now?

MR. BERKMAN:

Well, we haven't handled ratepayer litigation. We have handles litigation with LILCO. We have been involved with power plant from Florida up to New York and we have read your resolution and done research on it and I think we're pretty much up to speed, but in terms of your specific question about experience in ratepayer litigation we haven't done it before.

CHAIRMAN COOPER:

And do you have any litigation that you've been involved with that has involved Suffolk County and if so what was that?

MR. BERKMAN:

Our litigations for Suffolk County?

CHAIRMAN COOPER:

Yes.

MR. BERKMAN:

They're for Suffolk County. We've never --

CHAIRMAN COOPER:

For or against.

MR. BERKMAN:

Peter.

MR. SULLIVAN:

Suffolk County, there's been Suffolk County with the AME, Suffolk County with PBA, Suffolk County with the COA, Suffolk County with Mr. Caputo. In reverse order we're currently involved with Mr. Caputo. There's litigation a number of years ago the Suffolk County Legislature had a contention with the State Legislature with regard to the full aspects of Section 30 of the Suffolk County Tax Law and to the extent that Suffolk County Legislature could waiver penalties and interest for real property taxes. You may recall that interest and that led to a local law involving the extent to which the Suffolk County Legislature could exercise its discretion already found in Suffolk County Section 30 of the Suffolk County Tax Law. That led to a resolution of the Legislature waving interest and penalties for Brunswick Hospital when it came back on line after its bankruptcy. That led to litigation by Mr. Caputo both against the resolution and the local law. That led to an initial motion to dismiss; it led to a first level of appeal in the appellate division finding that the lawsuit with regard to the resolution on Brunswick Hospital was untimely as it was an administrative rather than a legislative act. Court found Judge Doyle that it stated a cause of action with regard to the unconstitutionality of the local law itself the charge being that the Suffolk County Legislator's act was an impermissible interpretation of Suffolk County Tax Act Section 30 and was a local attempt to amend State Law. There's also a claim in the lawsuit with regard to legal fees --

MR. BERKMAN:

Do you really want to know all if you really want to know all about this, but

CHAIRMAN COOPER:

No, that's all right.

MR. SABATINO:

The key is just to be certain that there's no that there's no lawsuits pending against the County which might create a conflict of interest.

MR. BERKMAN:

Absolutely, not.

CHAIRMAN COOPER:

And can we also assume that your firm or any family member or partner of your firm has no contract with Suffolk County?

MR. BERKMAN:

I'm certain of that and to my knowledge we haven't polled everybody in the firm, but I could do that very easily, but I would be very, very surprised. It would have to be something that I wouldn't know about and I would generally know about something like that. So the answer is I think not, but before we would go further I would send a memo out asking anybody that question.

CHAIRMAN COOPER:

And likewise do you know of any personal relationships with any officer or official employee of Suffolk County that could create a potential conflict of interest.

MR. BERKMAN:

I certainly don't think so, no.

CHAIRMAN COOPER:

Would you contemplate performing this work for Suffolk County on a contingency fee basis?

MR. BERKMAN:

No.

CHAIRMAN COOPER:

If we do go to an hourly basis if compensation what are your normal rates for the various members of your firm including paralegal?

MR. BERKMAN:

Well, --

MR. SABATINO:

That's on the public record that has been in the past.

MR. BERKMAN:

Well, are you asking the hourly rates or you're asking what rates we would quote you? I mean, there's a difference. I mean, we have a municipal rate and we have a general hourly rate. The general hourly rates for are partners are in the vicinity of 300 to 350. The general rates for associates start at 200 and go down to 150. The paralegals are 90.

CHAIRMAN COOPER:

I'd like to now make a motion to go into executive session.

LEGISLATOR GULDI:

Hold on; before we go into executive session I have a question.

CHAIRMAN COOPER:

Sure.

LEGISLATOR GULDI:

I've looked through the brochure that you handed out and I've heard the description and the scope of services and the access to the resources you've shown without discussing any litigation theory from the matter that we're contemplating engaging Counsel's services for. I'd like you to briefly tell me because this is an opportunity to do what the Bar Association won't let you do in print media, tell me why you and your firm are the best counsel for Suffolk County in this matter. You have 180 words I'll give you a whole minute.

MR. BERKMAN:

I'll take less than a minute. In the complex litigations that we've handled both for Suffolk County and other municipalities we have been extremely successful because we get inside a case and we have probably a multitude of theories of offense and defense and we don't do it the routine way we do it the creative way. We think out of the box.

LEGISLATOR GULDI:

Mr. Chairman are we going to -- can I put in a request that we do the public session with each attorney first then do the exec. sessions with all three them in the same order so that we can only need to go to one exec. session instead of bouncing between rooms?

CHAIRMAN COOPER:

That makes sense. Ken, thank you very much.

MR. BERKMAN:

Thank you very much.

CHAIRMAN COOPER:

Peter, thank you. Our next speaker is Barry Fine from Fine Hummel.

MR. HUMMEL:

Good morning. My name is Barry Fine I'm the senior partner of Fine Hummel, P.C. We have offices in Huntington. Our law firm only has seven attorneys in it and we're only about ten years old, but we're probably one of the most enthusiastic firms on the Island and handle complex litigation. We've represented municipalities. We represented the Village of Sea Cliff in some litigation they had against the Town of Glen Cove involving the Foxwood's Ferry.

Eventually, Sea Cliff joined another group another public group another public group and they lost in that case, but we weren't with them anymore and by the way they also did that at the very, very end that was sought of the eleventh hour. We represent a large diverse variety of clients both private, personal and corporate. We do a great deal of environmental and commercial litigation. I'm a past chair of the Suffolk County Bar Association's Environmental Law Committee. Two of my partners have already chaired the Technology Committee as well as the Entertainment Law Committee. We've litigated against LILCO in property damage cases and as I've mentioned our firm is probably one of the most enthusiastic on the Island. We like winning and this case from our review is largely fact driven and the issues of an arrest probably on some fundamental legal doctrines. Any questions that anybody may have.

LEGISLATOR GULDI:

First Counsel, a potential conflict question that I'd like to put on the record. I have litigated as an adversary in a civil matter on behalf of the client of mine with the firm of Fine and Hummel approximately a year ago of Fine and Hummel who were counsel to my adversary's and I think that they were substituted out of the case only a few weeks after I was substituted out by my client. But we did have an adversarial relationship on behalf of our clients in a matter litigated in Federal Court on an intellectual property within the last year.

MR. SABATINO:

The matter is concluded.

LEGISLATOR GULDI:

Well, neither one of us has a continuing relationship with the client that we represented

MR. SABATINO:

Okay, so the matter is not concluded, but both parties --

LEGISLATOR GULDI:

I have no idea whether the matter is concluded it may or may not be.

MR. SABATINO:

-- but neither of you are currently actively engaged in that litigation because you've both been substituted as Counsel. Then I would treat the full disclosure as permitting you to act in this matter.

LEGISLATOR GULDI:

Okay. When the Chairman's done with his questions I'll have questions. Thank you.

CHAIRMAN COOPER:

Mr. Fine I had the same question for you that I had for Mr. Berkman is there anything that you are aware of that could present a conflict of interest either real or perceived?

MR. FINE:

No, none whatsoever. I've checked that before I came this morning.

CHAIRMAN COOPER:

And would you contemplate doing this for a contingency fee basis?

MR. FINE:

That wouldn't be a decision that I would make on my own. I'm the senior partner, but I'm not the managing partner. It certainly would not be something that we strike off the calendar. I mean, it certainly would be something that we would consider.

CHAIRMAN COOPER:

Thank you. And what are your normal hourly rates of compensation?

MR. FINE:

Partners are \$300 an hour. Associates run from about 200 down to about 150. Paralegals are \$75 an hour and I'm sorry senior of counsel attorneys also \$300 an hour.

CHAIRMAN COOPER:

Thank you. Any other questions?

MR. FINE:

Thank you.

LEGISLATOR GULDI:

What is the personnel mix the total composition of personnel engaged directly and indirectly by Fine and Hummel? What's your personnel resource pool? How many lawyers? How many support?

MR. FINE:

All totaled we have a staff of about ten. We're seven attorneys and they're sought of broken up between legal assistants and paralegals.

LEGISLATOR GULDI:

Okay. I'll give you same question I gave the last Counsel and tell my why we as trustees for the taxpayers of Suffolk County should engage you as the best firm, you and your firm as the best firm to represent Suffolk County in this matter?

MR. FINE:

Well, I think we're as qualified as any, but I think in addition that as I mentioned before we bring enthusiasm to the table.

LEGISLATOR GULDI:

Okay. Thank you.

CHAIRMAN COOPER:

Thank you, Mr. Fine. Next we have Irving Like from Reilly, Like, Tenety & Ambrosino. Good morning.

MR. LIKE:

Good morning. Oliver Wendell Holmes said that a page of history is worth a volume of logic and I would submit to you that my strongest credential is the fact that historically I have been engaged intimately with virtually every issue that's involved utility practice on Long Island starting with LILCO's construction of the Shoreham plant through it's efforts to build a Jamesport plant through the ultimate defeat of both plants. And with regard to rate practice I was special counsel to Suffolk County in the LILCO 1978-1979 electric rate cases. These were cases in which the utility requested rate increases leading to about it would have meant an increase of about \$147 million attributable to Shoreham construction work in progress. I represented Suffolk and Nassau; we engaged consultants and for the first time LILCO was defeated. They ultimately were allowed an increase I think of \$7 million. I also have an experience in complex litigation; I was chair of the Law Committee of the Agent Orange lawsuit, which as you may recall was a suit on behalf of the two million Vietnam Veterans against various chemical companies. It resulted in a \$180 million settlement which was payable to the veterans. I was also special counsel to the Counties of Nassau and Suffolk in the offshore oil drilling cases in the mid 1970's. This was a suit to prevent oil drilling in the Atlantic Region off Long Island and New Jersey. We won in the District Court; we were reverse on appeal on a {neaper} issue, however, ultimately the companies came up dry in drilling based primarily upon expert opinion that we presented that there was no oil and gas in commercial quantity in the offshore region.

With regard to tax assessment litigation I've had considerable experience in class actions; represented property owners against the Town of Islip challenging a discriminatory assessment resulting in a \$10 million refund to 3,000 taxpayers. Most recently I was involved as co-counsel in the litigation which challenged Nassau County's tax assessment structure as being discriminatory. We won in the Supreme Court; it led to a complete overhaul, which is underway of the Nassau County tax system. As regards to LIPA related litigations or LILCO related litigations I was counsel for the initiative competitive energy. This was the first challenge to the bifurcated rate structure that was established by the Shoreham settlement relied primarily on the analysis of Suffolk County Budget Director Pollert. We were dismissed for lack of standing because is was a suit brought by private parties. However, our work product was ultimately used by the Town of Islip in a successful challenge to the bifurcated structure now pending in the Supreme Court in the Appellate Division.

My last litigation on behalf of the County of Suffolk was a suit brought by the County of Suffolk Towns of Huntington and Babylon against LILCO, KeySpan and LIPA seeking recovery on behalf of the rate payers or a gain of exceeding \$350 million which is realized by KeySpan which should have been allocated to the ratepayers. We also sought recovery of \$471 million of deferred federal income liability owed to the ratepayers which were extinguished as a result of the LIPA acquisition and flowed to the local shareholders. And we sought to also recovery a golden parachute that had been paid to the senior officers of LILCO. This was a case in which our allegations were not disputed. The case was dismissed on a very technical doctrine known as the Rate Doctrine. It's a doctrine you will face unfortunately in this particular lawsuit if you decide to proceed against LILCO -- against LIPA. I think that was a Freudian slip because we think LIPA is pretty much LILCO.

My firm is a small firm. I have -- we have three partners. I would staff this case with one of my partners. I would not intend to use any paralegals. I've been sufficiently intimately connected with these types of issues not to require a large staffing component. With regard to fee structure I normally bill at 325 per hour; in this case I would be interested in perhaps a hybrid arrangement of a minimal hourly rate with some form of a bonus of success. The

bonus would be reflected in some kind of a contingency arrangement. I recently the last litigation which was the County of Huntington the -- County of Suffolk litigation involving the attempt to recover the gain that was realized. I did have a contingency fee retainer with Suffolk County. The County however, decided to withdraw as part of its entry into the Shoreham settlement agreement. That was painful for us from a fee point of view because that meant that was not getting anything for that period of time that I was representing the County of Suffolk. However, I'm still open to the idea of a contingency fee. There's enough involved here in terms of revenue recover if you're successful that a good hit would be very profitable for a law firm.

CHAIRMAN COOPER:

Thank you, Mr. Like. One question the same as I had asked the two previous attorneys, is there anything that you know of that would create a potential conflict of interest with Suffolk County.

MR. LIKE:

No. I've disclosed in my response to your invitation to appear that I am presently involved in a Bar claim action against the County of Suffolk relating to certain real estate in the Town of Southampton which has to do with who has a superior title. I'm also a member of Suffolk County Electrical Agency, which meets periodically on energy matters, but I don't regard my services there as being in conflict with anything I would do here.

CHAIRMAN COOPER:

Thank you. Legislator Guldi.

LEGISLATOR GULDI:

No, actually the last question I had left was the conflict question unless you want to take a shot at beyond the section you already have on history why you're the best firm for the job.

MR. LIKE:

I don't claim to be the best firm I simply stand on my historical record of involvement with these matters.

CHAIRMAN COOPER:

No, questions. Thank you, Mr. Like.

LEGISLATOR GULDI:

Motion to go into executive session to discuss litigation strategies and fee structures with members of the Legislature, Budget Review, Legislative staff personnel, Counsel to the Legislature and --

MR. SABATINO:

Representatives from each of the three law firms.

LEGISLATOR GULDI:

Right. Yeah, representatives from each of the three law firms.

MR. SABATINO:

One at a time. Right.

LEGISLATOR GULDI:

One at a time serially in the same order they addressed us.

CHAIRMAN COOPER:

I'll second the motion. All those in favor? Opposed? That motion is approved. (Vote: 5-0)

LEGISLATOR GULDI:

Can I amend the motion so that all we -- do we need to come back to public session or can we just give her a time?

MR. SABATINO:
Give her time.

LEGISLATOR GULDI:
Well, amend the motion so we'll just give her a time that we conclude the exec. session.

EXECUTIVE SESSION BEGAN AT 11:22 P.M. AND END AT 11:58 P.M.

(Having no further business the Ways and Means Committee was adjourned at 11:58 A.M.)

{ } denotes spelled phonetically.